

CHAPTER XIII.

CERTAIN IMPORTANT ACTS.

Arms
Act.

Normally the administration of the Arms Act is carried out by the District Magistrate but in some districts the renewal of gun licences is done by the Sub-Divisional Magistrate.

If you have to renew gun licenses the following extract from "the Junior Collector's Hand Book" gives useful advice provided you substitute "S.D.M." for "D.M." throughout.

"Government have of recent years issued strict orders about the control of licences for fire-arms. There is no doubt that a number of weapons are out without licences; but what is entirely preventable is that a weapon which is once licensed should be lost sight of afterwards. This can never happen if the District Magistrate is vigilant. Suppose in a certain district there are 80 licenses for 80 fire-arms. Seventy-five of these apply for renewal before the end of the year. What about the remaining five? The District Magistrate must personally see in the month of January that these remaining five are brought up before him. Only in this way can the unauthorized keeping of fire-arms be prevented. What usually happens is that the District Magistrate does not take any trouble; and the clerk who is generally over-worked about this time, puts up a list sometimes as late as October following, that five licenses had not been renewed. The District Magistrate asks the police to inquire. Later it is reported that one of the licensees has left the province. The District Magistrate orders "strike off". Perhaps

another has been transferred. About him he orders "Strike off from the register and inform the District Magistrate of the place to which the man has been transferred". Both these orders are incorrect. In the first case, if the man has left the province, you must take some steps to see that the fire-arm is properly licensed. Sometimes an officer goes away to England on retirement and hands over his gun to a friend, who thus keeps it for the rest of his life without a licence. In the second case, as soon as you have got the license struck off from your register, that particular fire-arm is unregistered anywhere and there is no certainty that the man will be found in the district to which he is reported to have been transferred. These examples are taken from actual cases which have come before me and the second one relating to transfer is a very common one; in some districts there are even printed post-cards with this order. The proper order in the first case is to ask the police to trace the man to whatever province he is supposed to have gone; and in the case of an officer who has gone away to England, to write to his address in England. In the case of a man leaving one district for another on transfer, the proper order is to inform the District Magistrate of the place where the man has gone and ask him to take action; and only after he reports that he has registered the license in his district should you strike it off from yours.

Again, do not renew a licence which does not belong to your district, unless you are requested to do so by the Magistrate of the district where the license was issued."

“ Fees.—Remember, also, that there is a misapprehension in the minds of many officers and clerks about the amount of fees to be paid on renewal. The orders are that full fee is payable, unless the renewal is made within a month of the expiry of the licence, in which case only half fee is taken. No discretion is allowed to you. If the licence has not been renewed in the month, full fee must be paid.”

(The Junior Collector's Handbook, p. 120.)

You may find that licensees are extremely lax in submitting their licenses for renewal in which case, after one warning you may find it advisable to order prosecution, as soon as the period covered by the license has expired. You will have to use your discretion, however; it might be, for instance, inadvisable to prosecute a well-known and respected landlord or your own Collector without a warning, if he forget to renew his gun license in time.

You should bring to the notice of the District Magistrate for cancellation any cases where fire-arms have been misused, or where the licensees have been careless in their custody and weapons have been stolen or used by others, or where the licensee's general conduct is such as to make it undesirable to allow him arms, also cases where the number of arms in a particular area seems excessive, or where owing to the depredations of pig or dacoits more weapons seem needed. But do not be too credulous about alleged needs for weapons; “ pig ” or “ dacoits ” may mean no more than the applicant's swelled head!

A gun license given on plea of “ pig ” should be for “ Crop protection only ” on form XIX and that for

"Dacoits" for "protection" only on form XVI, striking out other alternatives of "sport" and "display". These restrictions are necessary to discourage ruthless destruction of game and poaching in Forests—though of course the purpose for which a license is granted does not ensure that the gun will only be so used!

The Bombay Children's Act defines a child as a person under 16 years of age, and it deals with the care of destitute children, offences against children, youthful offenders, certified schools for children affected by the Act, and Juvenile Courts. You will probably have a certain number of children brought up in your Court for breaches of the law, and as Sub-Divisional Magistrate you will have to watch the proceedings of your Magistrates when children are sent up before them. The Children's Act.

It is obvious—though often apparently not so to some Magistrates—that children should not be looked upon as, nor herded with, adult offenders, and that treatment must be protective and remedial. Read "The Report of the Committee of Inquiry into the Care of Destitute Children and Young Offenders, 1933", and "The Instructions for the guidance of Criminal Courts and Police Officers in regard to the Treatment of Young Offenders", both of which should be in your office.

Normally *all* girls, and almost without exception all boys, arrested and brought before you are to be released on bail instead of being kept in custody, and if it is necessary to remand them to custody, it must be if possible to a school, institution and the like, not to the lock-up.

The trial of juveniles must be separate from that of adults and the proceedings must be as simple as possible.

Except in very exceptional circumstances sentence of imprisonment is illegal.

Government Circular, H. D., No. 5039/3-III of 24th February 1936 gives further instructions, all of which should be studied, and extracts are given in Appendix D.

Even despite these orders you may find Police or Magistrates putting unfortunate children into Taluka Lock-ups or sentencing them to jail. If you do, you must take very serious notice of it.

Take any opportunity of visiting a certified school—in particular if you go to Poona, see the Yeravda School which is a remarkably successful institution. If there is a probation officer at your head quarters or in your Sub-Division, discuss the local problems of youthful offenders with him.

The
Borstal
Schools
Act.

The Borstal Schools Act applies to persons not less than 16 and not more than 21, i.e., those who are no longer children, but not of age, and whose associations with crime in the past are such that it is worth while trying to reform them and to turn them into decent citizens. Government Circular, Home Department, No. P. 158 of 17th July 1936, indicates which offenders can be suitably sent to a Borstal School.

“3. Adolescent offenders may be classified into three broad categories :—

(1) the first offender, who has no criminal habits or associations. Such boys are not suitable for detention in the Borstal School, inasmuch as they do not require the education and training provided there. Section 562 of the Criminal Procedure Code should cover the normal case of this type ;

(2) the youthful criminal, possibly with previous convictions—Magistrates should enquire carefully into the previous history of such persons, and if convinced of their bad habits and associations, should award a sentence of Borstal detention rather than a short period of imprisonment, as the latter in no way acts as a deterrent and does nothing to assist in the reformation of adolescent offenders ;

(3) the youthful offender whose offence is too serious to be dealt with under Criminal Procedure Code, 562, but whose (a) crime and (b) habits and associations do not indicate that he is a Borstal type. Such boys should be sent to the Juvenile Section of one of the Prisons.

“ 4. The Governor in Council hopes that Magistrates will bear in mind the distinctions outlined above and will consider carefully the principles underlying them, so that, in future a more scientific application of the law in regard to youthful offenders may be secured. District Magistrates are requested to pay special attention to juvenile crime when examining criminal returns and Courts and should comment in their annual reports on the attention Subordinate Magistrates are giving to the matter.”

(G.C., H.D., No. P. 158, dated 17th July 1938.)

Do not forget that for the reformatory treatment to be effective time is needed.

“ In recording the report for 1933-34 of the Bombay Presidency Borstal Association the Governor in Council would again draw the attention of Magistrates to the need for awarding adequate periods of detention..... The Magistrates are again reminded that a period of, say,

five years' detention, is no harsher than a period of three or even two years for, after a certain portion of the period of detention has been passed, and in *any* event after two years, the case of *every* boy is reviewed and if he has behaved well and has profited by his training he is released. The advantage of the longer period lies, in the fact that after release a boy is under guidance for a longer period and has much more chance of settling down to a useful life. It is to be remembered that in deciding how long the period of detention should be, the time required for reformation and training should be the criterion and not the amount of punishment deserved."

(G.R., H.D., No. P. 169, dated 18th July 1934.)